

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



CALIFORNIA DEPARTMENT OF FORESTRY)	
EMPLOYEES ASSOCIATION,)	
)	Case No. S-CE-392-S
Charging Party,)	
)	
v.)	Request for Reconsideration
)	PERB Decision No. 734-S
STATE OF CALIFORNIA (CALIFORNIA)	
DEPARTMENT OF FORESTRY AND FIRE)	PERB Decision No. 734a-S
PROTECTION),)	
)	August 24, 1939
Respondent.)	

Appearances: Department of Personnel Administration by Roy J. Chastain, Labor Relations Counsel, for State of California (California Department of Forestry and Fire Protection).

Before Hesse, Chairperson; Porter, Craib, Shank, and Camilli, Members.

DECISION

HESSE, Chairperson: The California Department of Forestry and Fire Protection (Forestry) requests reconsideration of PERB Decision No. 734-S, issued by the Public Employment Relations Board (PERB or Board) on May 3, 1989. In that decision, the Board affirmed the Board agent's dismissal of the allegation that Forestry interfered with the employees' rights in violation of section 3519(a) of the the Ralph C. Dills Act (Dills Act).¹ With

¹Ralph C. Dills Act is codified at Government Code section 3512 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. Section 3519 provides, in pertinent part:

It shall be unlawful for the state to:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise

regard to the allegation that Forestry interfered with the rights of the California Department of Forestry Employees Association (Association), the Board reversed the Board agent's dismissal and found that the alleged statement stated a prima facie case that Forestry interfered with the rights of the Association. The Board ordered that the General Counsel issue a complaint alleging a violation of section 3519(b) of the Dills Act.

DISCUSSION

PERB Regulation 32410(a) states, in pertinent part:

Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision . . . The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

In its request for reconsideration, Forestry asserts that the Board's decision contains an error of law, because the Board failed to address: (1) whether the section 3519(b) allegation was a separate allegation from the section 3519(a) allegation; and (2) whether the section 3519(b) allegation should be deferred

to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(b) Deny to employee organizations rights guaranteed to them by this chapter.

to final and binding arbitration.² Forestry fails to allege that the Board's decision contains either prejudicial errors of fact or newly discovered evidence or law. Rather, Forestry argues that the Board failed to apply the strong policy of deferral to arbitration under the Dills Act and pursuant to the Board's decision in Lake Elsinore School District (1987) PERB Decision No. 646. As Forestry's arguments do not constitute grounds for reconsideration under PERB Regulation 32410(a), the request for reconsideration must be denied.

ORDER

The request by State of California (Department of Forestry and Fire Protection) that the Board grant reconsideration of PERB Decision No. 734-S is DENIED.

Members Porter, Craib, Shank, and Camilli joined in this Decision.

²The Board found that the alleged statement, wherein Forestry threatened that there would not be a contract, states a prima facie violation of section 3519(b), independent of section 3519(a). As the allegation that Forestry interfered with the rights of the employee organization is not covered by an applicable provision in the parties' collective bargaining agreement, this allegation is not subject to deferral to arbitration.